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MOHAMED E. FAYAD

**UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA**

MOHAMED E. FAYAD,

Plaintiff,

Vs.

BOARD OF TRUSTEES OF THE  
CALIFORNIA STATE UNIVERSITY,

Defendant.

Case No. C07-03209 (HRL)

VERIFIED FIRST AMENDED  
COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF

Demand for Jury Trial

Comes now Plaintiff MOHAMED E. FAYAD and alleges the following:

**PRELIMINARY STATEMENT**

1. Mohamed Fayad, a former professor now lecturer at the California State University, San Jose (CSU), Department of Computer Engineering, College of Engineering (Department), brings this action for damages and injunctive relief for discrimination based upon his national origin and religion.

1 Fayad brings this action to redress CSU's unlawful discrimination and seeks injunctive as well as  
2 compensatory and general damages.

3  
4 JURISDICTION

5 2. This action arises under the Civil Rights Act of 1964, Title 42, United States Code  
6 §§2000e through 2000e 17, as amended in particular by § 2000e-2(a).

7 3. The matter in controversy exceeds, exclusive of interest and costs, the sum of  
8 seventy-five thousand dollars.

9  
10 VENUE

11 4. Venue is proper in the Northern District of California because a substantial part of  
12 the events or omissions giving rise to the claim occurred in this District.

13 5. Venue is proper in the Northern District of California because CSU employs  
14 Fayad in the District.

15  
16 PARTIES

17 6. At all times relevant hereto, plaintiff MOHAMED E. FAYAD was a professor in  
18 the Department of Computer Engineering, College of Engineering, at San Jose State University  
19 and a resident of the County of Santa Clara, State of California. Fayad is of Egyptian national  
20 origin and is of the Muslim religion. Plaintiff Fayad is a bona-fide resident of the State of  
21 California.

22 7. Defendant, Board of Trustees of California State University (CSU) was and is a  
23 state public entity that owns and operates CSU, San Jose.

24  
25 STATEMENT OF FACTS

26 8. Fayad has an outstanding record of scholarly work with a sound publication  
27 record. He has published over one hundred articles and four books, of which three are translated  
28 into Chinese.

1           9.       Fayad received his Bachelor of Science degree from the University of Cairo in  
2 1972. He received his Masters in Computer Science from the University of Minnesota in June  
3 1993. He received his Ph.D. at the University of Minnesota in June 1994.

4           10.      From February 1988 to June 1989, Fayad worked as a Research Assistant in the  
5 Computer Science Department at the University of Minnesota. From June 1989 to December  
6 1992, Fayad worked as Principal, Specialist Engineering, at McDonnell Douglas Corporation in  
7 St. Louis, Missouri. From January 1993 to July 1995 he worked as Vice President of Research  
8 and New Business Development and Founder of Object Technologies in St. Louis, Missouri.  
9 From August 1995 to August 1999, he was employed as an Associate Professor at the College of  
10 Engineering at the University of Nevada, Reno, Nevada. From August 1999 to August 2002, he  
11 was the J.D. Edwards Professor, and an Associate Professor in the Computer Science and  
12 Engineering Department at the University of Nebraska, Lincoln, Nebraska.

13          11.      Fayad joined the faculty at CSU in 2002 as a Professor in the Department of  
14 Computer Engineering. Because he served as an Associate Professor at the University of  
15 Nebraska for four years before coming to CSU, Fayad received two years of credit toward his  
16 tenure review at CSU.

17          12.      In 2003 Belle W. Y. Wei, the Dean of College of Engineering at CSU, wrote that  
18 Fayad's outstanding scholarly work had enhanced the college's reputation. Fayad is a well-  
19 known specialist in research for software development.

20          13.      Fayad's promotion to tenure in 2004 was strongly supported by several professors  
21 in his department.

22          14.      Fayad clearly met CSU standards for a tenured position. Under normal  
23 circumstances Fayad's scholarly work and teaching record at CSU would have virtually  
24 guaranteed that he would be promoted to tenure.

25          15.      On November 5, 2004, the Retention, Tenure and Promotion Committee at CSU  
26 recommended that Fayad be denied promotion to tenure and that he be terminated

27          16.      As a result of the Committee's decision, the Provost at CSU denied Fayad's  
28 promotion to tenure in May 2005.

1 17. CSU demoted Fayad to Lecturer rank in August 2006. CSU then appointed Fayad  
2 as a part-time professor for the period of August 2006 to present.

3 18. On information and belief, CSU's decisions to deny him tenure and to demote  
4 him were based at least in part on his Egyptian national origin and Muslim religion.

5 19. On February 13, 2007, Fayad filed a charge of discrimination against CSU with  
6 the California Department of Fair Employment and Housing (DFEH) and was issued a Case  
7 Closure and Right-to-Sue Notice on March 2, 2007.

8 20. On February 20, 2007, Fayad filed a charge of discrimination against CSU with  
9 the United States Equal Employment Opportunity Commission (EEOC). On April 4, 2007, the  
10 EEOC issued FAYAD a Notice of Right-to-Sue.

11  
12 FIRST CLAIM FOR RELIEF – DISCRIMINATION BASED ON NATIONAL ORIGIN

13 (42 U.S. C. § 2000e-2(a))

14 21. Fayad refers to and incorporates by reference paragraphs 1-20 above as though  
15 fully set forth herein.

16 22. By virtue of the foregoing, CSU demoted Fayad to lecturer rank and to a part-time  
17 position based upon the unlawful consideration of his national origin in violation of Title VII of  
18 the Civil Rights Act of 1964, as amended.

19  
20 SECOND CLAIM FOR RELIEF – DISCRIMINATION BASED ON RELIGION

21 (42 U.S. C. § 2000e-2(a))

22 23. Fayad refers to and incorporates by reference paragraphs 1-22 above as though  
23 fully set forth herein.

24 24. By virtue of the foregoing, CSU demoted Fayad to lecturer rank and to a part-time  
25 position based upon the unlawful consideration of his religion in violation of Title VII of the  
26 Civil Rights Act of 1964, as amended.

DAMAGES

25. As a result of the actions of defendant CSU and its agents and employees, Fayad has been injured and has suffered damages as follows:

- a. He has lost compensation to which he would otherwise have been entitled;
- b. He is likely to lose compensation to which he would otherwise be entitled in the future;
- c. He has suffered from emotional distress, embarrassment and humiliation;
- d. His reputation in the scientific community has been damaged; and
- e. His prospects for future employment and career advancement have been diminished.

WHEREFORE, plaintiff MOHAMED E. FAYAD requests that this Court grant him relief as follows:

- (1) Damages for lost wages, earnings, and benefits according to proof;
- (2) Interest on damages at the prevailing legal rate;
- (3) Compensatory damages for humiliation, mental anguish and emotional distress;
- (4) Double damages pursuant to Labor Code Section 972;
- (5) Injunctive relief to redress the wrongs alleged herein;
- (6) Attorneys' fees;
- (7) Costs of suit; and
- (8) Such other and further relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

Plaintiff FAYAD hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: August 20 , 2007

SIEGEL & YEE

By 

Jane Brunner  
Attorneys for Plaintiff  
MOHAMED E. FAYAD

VERIFICATION

I, MOHAMED E. FAYAD, declare as follows:

I am the Plaintiff in the above-entitled case. I have read the foregoing amended complaint and know the contents thereof. The same is true except where its allegations are stated on information and belief, and as to such matters I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 20<sup>th</sup> day of August 2007, at Oakland, California.



Mohamed E. Fayad